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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/367,714	01/14/2000	YECHIEL SHAI	SHAI=2	4669

1444 7590 02/15/2002

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EXAMINER

LUKTON, DAVID

ART UNIT

PAPER NUMBER

1653

DATE MAILED: 02/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/367,714

Applicant(s)

Shal

Examiner

David Lukton

Art Unit

1653



— Th MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 10/3/01 and 11/29/01

2a) ☐ This action is FINAL.

2b) ☐ This action is non-final.

3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-17, 20, 21, and 27-36 is/are pending in the application.

4a) Of the above, claim(s) 15, 16, and 36 is/are withdrawn from consideration.

5) ☒ Claim(s) 1-14, 17, 20, 21, and 27-35 is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other: _____

Pursuant to the directives of paper No. 18 (filed 10/3/01), claims 18, 19, 22, 26 have been cancelled, claims 27-36 added, and claims 1, 6-8, 10, 14-17, 20 amended. Claims 1-17, 20, 21, 27-36 were pending at that point. Subsequently, paper No. 19 (filed 11/29/01) directed the amendment of claims 1, 8, 16, 17, 20, 27-29, 31-34

Claims 1-17, 20, 21, 27-36 are regarded as pending. It is noted that applicants have argued that the directive to cancel claim 19 was an error. However, it is not sufficient that applicants' intentions are clear to the examiner. The record must be clear to a variety of other personnel, including those responsible for entering amendments and those responsible for printing the final document. Currently, the record is not clear. In the event that applicants would like to have claim 19 examined, it is suggested that applicants do the following: (a) submit a second directive to cancel claim 19, and (b) add another claim, numbered 37 or higher, which is equivalent to the current claim 19.

For purposes of this Office action, it is stipulated that the elected claims are allowable, at least to the extent that they encompass elected subject matter. What is sought in this Office action is elimination of non-elected subject matter. In paper No. 14 (filed 1/4/01), applicants elected Group I. This group is limited to subgenus "G3", which specifically excludes subgenera G1 and G2. Thus, compliance with the restriction would require amending the claims to eliminate any possibility of a peptide (or mixtures of peptides) being encompassed which consists of only L-amino acids. Also required is elimination of

genus G2. Among the amendments sought are the following:

- (i) amend claim 1 to delete part (C);
- (ii) amend claim 1, part (A), to eliminate the possibility that the peptide can consist of only L-amino acids. Currently, part (A) permits the peptide to "comprise [only] one ... of L-amino acids..."
- (iii) amend claims 34-35 to eliminate the possibility of the mixture containing peptides that consist of only L-amino acids.
- (iv) cancel claims 15, 16 and 36.
- (v) if the intended replacement of claim 19 is dependent on claim 36, applicants should merely cancel claim 19, and abstain from replacing with an equivalent claim; claim 36 is drawn to the subject matter of original claim 1, part (3), and is non-elected.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle* [1935 C.D. 11, 453 O.G. 213].

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

✱

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In those claims which recite a peptide sequence which is preceded by a number, the number (which is not a SEQ ID NO:) should be followed by a right-hand parenthesis, rather than a period. For example, in claim 17, "96." and "97." should be replaced by "96)" and "97)", respectively. The reason is simply that there should be only one period present in each claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton. Phone: (703) 308-3213.

An inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.



DAVID LUKTON
PATENT EXAMINER
GROUP 1800